

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

LC2010-000914-001 DT

12/12/2011

THE HON. CRANE MCCLENNEN

CLERK OF THE COURT  
J. Eaton  
Deputy

AZ PROTEK URETHANE TECHNIQUES LLC  
LEO MARK BLACKWELL

SANDRA L SLATON

v.

VICTOR CUADRA (001)  
FLORA SCHULE (001)  
ARIZONA REGISTRAR OF CONTRACTORS  
(001)  
WILLIAM MUNDELL (001)

VICTOR CUADRA  
515 E CAREFREE HWY.  
#994  
PHOENIX AZ 85085  
FLORA SCHULE  
515 E CAREFREE HWY.  
#994  
PHOENIX AZ 85085  
MONTGOMERY LEE

OFFICE OF ADMINISTRATIVE  
HEARINGS  
REMAND DESK-LCA-CCC

RECORD APPEAL RULING / REMAND

Plaintiff-Appellants AZ Proteck Urethane Techniques, LLC., and Leo Mark Blackwell ask this Court to review the Order of the Arizona Registrar of Contractors, dated July 1, 2010, and the Order of the Arizona Registrar of Contractors, dated November 2, 2010, Denying Request for Rehearing. For the following reasons, this Court affirms those Orders.

I. FACTUAL BACKGROUND.

On November 19, 2009, Defendant-Appellees Victor Cuadra and Flora Schule (Defendants) filed a complaint with the Arizona Registrar of Contractors (AzROC) against Plaintiff-Appellants AZ Proteck Urethane Techniques, LLC., and Leo Mark Blackwell (Plaintiffs). After an inspection of the premises, Defendants requested an administrative hearing, which was held May 27, 2010. At the conclusion of the evidentiary hearing, the ALJ issued a recommended order that Plaintiffs pay \$8,926.60 to Defendants as restitution. On July 1, 2010, the AzROC adopted the ALJ's recommended order with certain modifications. On August 5, 2010, Plaintiffs filed a Petition for Rehearing, and on August 24, 2010, Defendants filed a Response. On August 24, 2010,

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the ALJ recommended the AzROC deny Plaintiffs Petition for Rehearing. On November 2, 2010, the AzROC issued its Order Denying Request for Rehearing. On December 9, 2010, Plaintiffs filed a Complaint requesting review of the administrative decisions of the AzROC. This Court has jurisdiction pursuant to A.R.S. § 12-124(A) and A.R.S. § 12-905(A).

II. GENERAL STANDARDS FOR REVIEW:

The Arizona statutory authority and case law define the scope of administrative review:

The court may affirm, reverse, modify or vacate and remand the agency action. The court shall affirm the agency action unless after reviewing the administrative record and supplementing evidence presented at the evidentiary hearing the court concludes that the action is not supported by substantial evidence, is contrary to law, is arbitrary and capricious or is an abuse of discretion.

A.R.S. § 12-910(E).

In reviewing an administrative agency's decision, the superior court examines whether the agency's action was arbitrary, capricious, or an abuse of discretion. The court must defer to the agency's factual findings and affirm them if supported by substantial evidence. If an agency's decision is supported by the record, substantial evidence exists to support the decision even if the record also supports a different conclusion.

*Gaveck v. Arizona St. Bd. of Podiatry Exam.*, 222 Ariz. 433, 215 P.3d 1114, ¶ 11 (Ct. App. 2009) (citations omitted).

[I]n ruling on the sufficiency of the evidence in administrative proceedings, courts should show a certain degree of deference to the judgment of the agency based upon the accumulated experience and expertise of its members.

*Croft v. Arizona St. Bd. of Dental Exam.*, 157 Ariz. 203, 208, 755 P.2d 1191, 1196 (Ct. App. 1988).

A trial court may not function as a "super agency" and substitute its own judgment for that of the agency where factual questions and agency expertise are involved.

*DeGroot v. Arizona Racing Comm'n*, 141 Ariz. 331, 336, 686 P.2d 1301, 1306 (Ct. App. 1984). The reviewing court must view the evidence in a light most favorable to upholding the agency's decision and affirm that decision if it is supported by any reasonable interpretation of the record. *Baca v. Arizona D.E.S.*, 191 Ariz. 43, 46, 951 P.2d 1235, 1238 (Ct. App. 1998). While the reviewing court is not bound by the agency's conclusions of law or statutory interpretations, an agency's interpretation of statutes or regulations that it implements is entitled to great weight. *Siegel v. Arizona St. Liq. Bd.*, 167 Ariz. 400, 401, 807 P.2d 1136, 1137 (Ct. App. 1991).

However, the agency's interpretation is not infallible, and courts must remain final authority on critical questions of statutory construction.

*U.S. Parking Systems v. City of Phoenix*, 160 Ariz. 210, 211, 772 P.2d 33, 34 (Ct. App. 1989).

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III. ISSUE: WAS THE ACTION OF THE AGENCY SUPPORTED BY SUBSTANTIAL EVIDENCE, AND WAS IT CONTRARY TO LAW, ARBITRARY AND CAPRICIOUS, OR AN ABUSE OF DISCRETION.

Plaintiff asks this Court to reverse the Decision of Order of the AzROC dated July 1, 2010. This Court has review the record in this matter, and the Findings of Fact, the Conclusions of Law, and the Recommended Orders of the ALJ dated May 27, 2010, which were adopted as modified by the Order of the AzROC dated July 1, 2010. This Court concludes the record in this matter supports the Findings of Fact made by the ALJ, and further concludes the ALJ reached the proper Conclusions of Law. This Court therefore concludes the actions of the AzROC were supported by substantial evidence, and were not contrary to law, arbitrary or capricious, or an abuse of discretion.

IV. CONCLUSION.

Based on the foregoing, this Court concludes the actions of the Arizona Registrar of Contractors were supported by substantial evidence, and were not contrary to law, arbitrary or capricious, or an abuse of discretion. This Court further determines there is no just reason to delay entry of judgment.

**IT IS THEREFORE ORDERED** affirming the July 1, 2010, Order the Arizona Registrar of Contractors adopting the ALJ's Recommended Orders.

**IT IS FURTHER ORDERED** affirming the November 2, 2010, Order Denying Request for Rehearing issued by the Arizona Registrar of Contractors.

**IT IS FURTHER ORDERED** remanding this matter to the Arizona Registrar of Contractors.

**IT IS FURTHER ORDERED** signing this minute entry as a formal Order of the Court.

/s/ Crane McClennen

THE HON. CRANE MCCLENNEN  
JUDGE OF THE SUPERIOR COURT

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